

Draft
Environmental Assessment

Big Creek Instream Flow

1/4/2019



***Montana Fish,
Wildlife & Parks***

Draft Environmental Assessment CHECKLIST

PART I. PROPOSED ACTION DESCRIPTION

1. **Type of proposed state action: Administrative**
2. **Agency authority for the proposed action: Montana Fish, Wildlife & Parks**
FWP has statutory authority to acquire water rights (§87-1-209 MCA) and the authority to permanently change water rights to instream flow (§85-2-436 MCA).
3. **Name, address and phone number of project sponsor (if other than the agency)**
Montana Fish, Wildlife & Parks
1420 East 6th Avenue
Helena, MT 59620
(406) 444-1229
4. **Anticipated Schedule:**
Estimated Instream Flow Lease Commencement Date: 2019
Estimated Instream Flow Lease Completion Date: 2029
Current Status of Project: Agreements with the landowners are already complete or nearly completed. The renewals for the temporary changes to instream flow have been filed and are subject to approval by DNRC.
5. **Location affected by proposed action (county, range and township – included map):**
The project is located in Park County in Township 6S, Range 7E.

Flow Restoration Reach

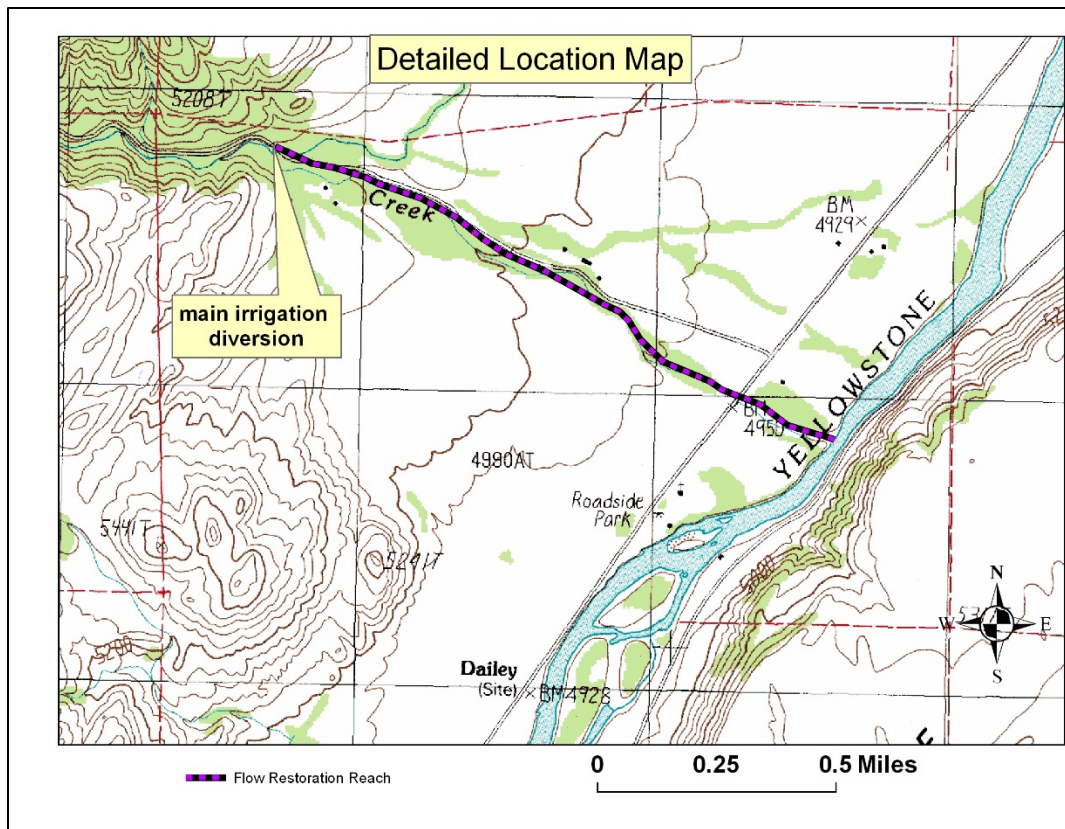


Figure 1: Big Creek project area.

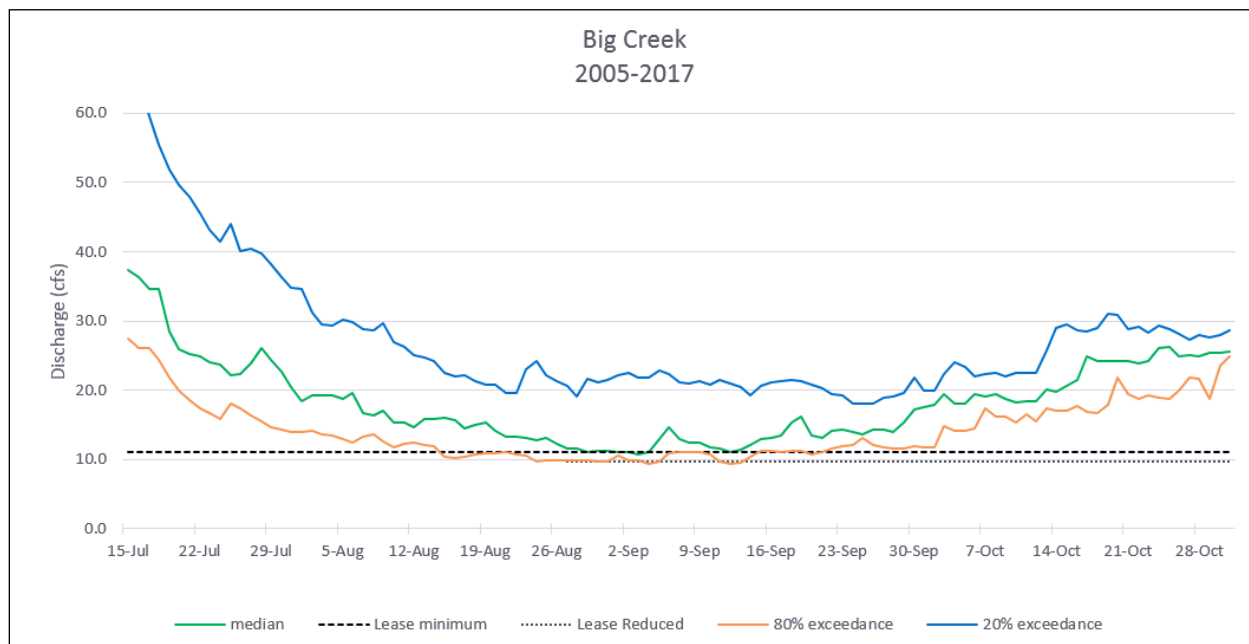


Figure 2. Hydrograph showing critical summer period exceedance flows (percentile of 80th; orange, 50th; green, and 20th; blue) in relation to the 11 cfs instream flow level (lease minimum; dark black dotted line) as well as the 9.74 cfs reduced instream flow level (fine black dotted line) after August 26th.

6. Project size -- estimate the number of acres that would be directly affected that are currently:

	<u>Acres</u>		<u>Acres</u>
(a) Developed:		(d) Floodplain	<u>0</u>
Residential	<u>0</u>		
Industrial	<u>0</u>	(e) Productive:	
(existing shop area)		Irrigated cropland	<u>333</u>
(b) Open Space/	<u>0</u>	Dry cropland	<u>0</u>
Woodlands/Recreation		Forestry	<u>0</u>
(c) Wetlands/Riparian	<u>0</u>	Rangeland	<u>0</u>
Areas		Other	<u>0</u>

*The amount of presently irrigated cropland will remain unchanged.

8. Permits, Funding & Overlapping Jurisdiction.

(a) Permits: permits will be filed at least 2 weeks prior to project start.

<u>Agency Name</u>	<u>Permits</u>
DNRC	Notice of Renewal of Temporary
Change	

(b) Funding:

<u>Agency Name</u>	<u>Funding Amount</u>
Future Fisheries Improvement Program	\$51,150
Mountain Sky Guest Ranch	\$12,300
Montana Fish, Wildlife & Parks	\$38,850

(c) Other Overlapping or Additional Jurisdictional Responsibilities:

<u>Agency Name</u>	<u>Type of Responsibility</u>
None	

9. Narrative summary of the proposed action:

Big Creek (Park County) is a tributary to the upper Yellowstone River and supports substantial recruitment of Yellowstone cutthroat trout to the river. Big Creek is considered critical Yellowstone cutthroat trout spawning habitat within the upper Yellowstone River drainage. Lower Big Creek was dewatered often during the irrigation season prior to a significant water conservation project and several associated water leases. The current instream flow leases have been in place for 20 years and are set to expire prior to the 2019 irrigation season. The total instream flow lease would be 10 cubic feet per second (cfs), with the water split between two ownerships:

- John L. Lake, Jr. and Yellowstone State Stop Estates Water User's and Homeowners Association; 2.8 cfs. [renewal for 10 years]
- Mountain Sky Guest Ranch; 7.2 cfs. [renewal up to 5 years, 1 year requested in this application, due to anticipated changes to its irrigation rights]. Providing in-kind water lease value.

The lease with Montana Land Reliance for 1-16 cfs is also being renewed for 10 years, not funded through this proposal. This project would continue providing water for 95% of

the redds in Big Creek, allowing for successful emergence and outmigration to the Yellowstone River. The goal is to preserve the streamflow obtained from the leases and continue achieving successful recruitment of Yellowstone cutthroat trout.

The change to instream flow of 10 cfs of the 12.5 cfs total for the water rights was approved by DNRC in 1999. The ownership and the right itself were subsequently been split into two water rights reflected above. The leased amount was proportionally split to 2.8 cfs and 7.2 cfs respectively. The proposed project is to renew the lease/change to instream flow for the 2.8 cfs portion for a period of 10 years and the 7.2 cfs for a period of up to 5 years but with only 1 year of funding being requested.

Mountain Sky Guest Ranch, the owner of one of the water rights (7.2 cfs portion of instream flow) is requesting changes to its irrigation rights to accommodate changes to their irrigated place of use and currently has a water right change application pending before DNRC. As a result of DNRC now requiring the replacement of lost return flow when the means of irrigation is converted from flood to sprinkler irrigation, most if not all the water FWP has been leasing will in the future be required to be left instream in Big Creek to replace lost return flow. There may be a small amount of additional water FWP may lease in the future, but the amount is unknown until DNRC approves the pending change. In the long run the benefits to Big Creek will accrue without having to lease most if not all of the water currently under lease. However, in the short-term DNRC will most likely not have the requested change approved by the 2019 irrigation season. For that reason, the current temporary change to instream flow is being renewed to protect instream flow until such time DNRC approves the pending change application. While the renewal agreement allows for up to five years, only one year of funding is being requested at this time as one additional year should provide DNRC adequate time to evaluate and approve the pending change application.

10. Description and analysis of reasonable alternatives:

Alternative A: Fund the water lease renewals and continue to protect instream flows.

Alternative B: Do not fund the water lease and fail to legally protect instream flow.

11. Evaluation and listing of mitigation, stipulation, or other control measures enforceable by the agency or another government agency:

The renewal of the temporary changes to instream flow will need to be approved by DNRC. Other water appropriators will receive notice from DNRC and will have 90 days to provide new evidence of adverse effects to their water right not previously considered. If new evidence is provided, a new application for change in appropriation right must be filed and approved for the temporary change to instream flow to continue.

DPART II. ENVIRONMENTAL REVIEW CHECKLIST

Evaluation of the impacts of the Proposed Action including secondary and cumulative impacts on the Physical and Human Environment.

A. PHYSICAL ENVIRONMENT

Will the proposed action result in potential impacts to:	Unknown	Potentially Significant	Minor	None	Can Be Mitigated	Comments Provided
1. Geology and soil quality, stability and moisture				X		
2. Air quality or objectionable odors				X		
3. Water quality, quantity and distribution (surface or groundwater)				X		
4. Existing water right or reservation			X			X
5. Vegetation cover, quantity and quality				X		
6. Unique, endangered, or fragile vegetative species				X		
7. Terrestrial or aquatic life and/or habitats				X		
8. Unique, endangered, or fragile wildlife or fisheries species				X		
9. Introduction of new species into an area				X		
10. Changes to abundance or movement of species			X			X

4. Existing water right or reservation.

This project does not change water rights of landowners other than the lessors. It does provide for the continued lease of water for instream flow from two Big Creek water users. The project is purely administrative, keeping water formerly used for irrigation and currently leased for instream flow within the stream.

10. Changes to abundance or movement of species.

This project will have a positive impact on abundance and movement of species, as streamflow recovery has improved the fishery and legal protection of water will provide benefits for either 1 or 10 years (see Section 1, Question 9). This instream flow lease has protected over 95% of redds in Big Creek, a major spawning tributary for Yellowstone cutthroat trout.

B. HUMAN ENVIRONMENT

Will the proposed action result in potential impacts to:	Unknown	Potentially Significant	Minor	None	Can Be Mitigated	Comments Provided
1. Noise and/or electrical effects				X		

Will the proposed action result in potential impacts to:	Unknown	Potentially Significant	Minor	None	Can Be Mitigated	Comments Provided
2. Land use				X		
3. Risk and/or health hazards				X		
4. Community impact				X		
5. Public services/taxes/utilities				X		
6. Potential revenue and/or project maintenance costs				X		
7. Aesthetics and recreation				X		
8. Cultural and historic resources				X		
9. Evaluation of significance				X		
10. Generate public controversy				X		

PART III. NARRATIVE EVALUATION AND COMMENT

There are no anticipated cumulative effects.

PART IV. PUBLIC PARTICIPATION

1. Public involvement:

The public will be notified in the following manners to comment on this current EA, the proposed action and alternatives:

- Public notice on the Fish, Wildlife & Parks web page: <http://fwp.mt.gov>.

This level of public notice and participation is appropriate for a project of this scope having limited impacts and is administrative in nature.

PART V. EA PREPARATION

1. Based on the significance criteria evaluated in this EA, is an EIS required? No.

If an EIS is not required, explain why the EA is the appropriate level of analysis for this proposed action.

We conclude, from this review, that the proposed activities will have an overall positive impact on the physical and human environment, and will therefore not require the extensive analysis associated with an EIS.

2. Person(s) responsible for preparing the EA: Michelle McGree, Program Officer Montana Fish, Wildlife & Parks

1420 East 6th Avenue, PO Box 200701
Helena, MT 59620
Telephone: (406) 444-2432
e-mail: mmcgree@mt.gov

3. **List of agencies or offices consulted during preparation of the EA:**
Andy Brummond, Montana Fish, Wildlife & Parks